S.B.CRIMINAL MISC. PETITION NO.399/2007
(Heer Singh V/s State of Rajasthan)

Date of order : : 02.04.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.Hanwant Singh, for the petitioner.
Mr.Ashok Upadhyay, PP for the State.

The learned counsel for the petitioner states that initially a misc. petition bearing No.773/2006 was filed by the petitioner which was decided by this Court vide order dtd.15.9.2006. Since this order could not reach the Magistrate, therefore, he could not raise the question regarding limitation before the learned Magistrate. The learned counsel for the petitioner states that cognizance has been taken in this case after 11 years for offence under Section 420 I.P.C., therefore, the oder passed by the learned Magistrate is bad in law.

I have perused the orderdtd.15.9.2006 which reads as under:

> "Learned counsel for the petitioner wishes to withdraw the criminal miscellaneous petition, however seeks liberty to raise all the contentions, which have been raised in this petition including the point of limitation, before the trial Court. The criminal miscellaneous petition is dismissed with the liberty sought for."

The learned counsel for the petitioner states that since this order could not reach the learned Magistrate, therefore, the question of limitation could not be raised before him. Now, the present misc. petition has also been filed against the order dtd.19.12.2006 stating that the point of limitation could not be raised before the learned Magistrate. I do not find any ground to interfere in the order dtd.19.12.2006. However, the learned counsel for the petitioners is directed to raise the question of limitation before the learned Magistrate and the learned Magistrate before proceeding further shall decide this question first.

With the aforesaid observations, the present misc. petition stands disposed of.

(KRISHAN KUMAR ACHARYA), J.

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